

IC 35-50-5

Chapter 5. Additional Penalties

IC 35-50-5-1 Repealed

(Repealed by Acts 1980, P.L.73, SEC.23.)

IC 35-50-5-1.1

Bribery or official misconduct

Sec. 1.1. (a) Whenever a person is convicted of a misdemeanor under IC 35-44-1, the court may include in the sentence an order rendering the person incapable of holding a public office of trust or profit for a fixed period of not more than ten (10) years.

(b) If any officer of a governmental entity is convicted of a misdemeanor under IC 35-44-1, the court may enter an order removing the officer from office.

As added by Acts 1980, P.L.73, SEC.3. Amended by P.L.4-1991, SEC.140.

IC 35-50-5-2

Alternative fine

Sec. 2. In the alternative to the provisions concerning fines in this article, a person may be fined a sum equal to twice his pecuniary gain, or twice the pecuniary loss sustained by victims of the offense he committed.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.131.

IC 35-50-5-3 Version a

Restitution order

Note: This version of section amended by P.L.85-2004, SEC.54. See also following version of this section amended by P.L.98-2004, SEC.157.

Sec. 3. (a) Except as provided in subsection (i), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

- (1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);
- (2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;
- (3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;
- (4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and

(5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a) or (i) is a judgment lien that:

- (1) attaches to the property of the person subject to the order;
- (2) may be perfected;
- (3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and
- (4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:

- (1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:
 - (A) the amount of the award, if any, paid to the victim under IC 5-2-6.1; and
 - (B) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8; or
- (2) a probation department that shall forward restitution or part of restitution to:
 - (A) a victim of a crime;
 - (B) a victim's estate; or
 - (C) the family of a victim who is deceased.

The victim services division of the Indiana criminal justice institute shall deposit the restitution it receives under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a) or (i), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

- (1) The name and address of the person that is to receive the restitution.
- (2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-17-2-3. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a) or (i) does not bar a civil action for:

- (1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and
- (2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection

(a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a) or (i) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.

As added by P.L.337-1983, SEC.1. Amended by P.L.149-1988, SEC.6; P.L.240-1991(ss2), SEC.99; P.L.2-1992, SEC.885; P.L.2-1993, SEC.194; P.L.47-1993, SEC.13; P.L.4-1994, SEC.21; P.L.307-1995, SEC.1; P.L.300-1995, SEC.3; P.L.1-1998, SEC.200; P.L.2-2002, SEC.105; P.L.88-2002, SEC.3; P.L.85-2004, SEC.54.

IC 35-50-5-3 Version b

Restitution order

Note: This version of section amended by P.L.98-2004, SEC.157. See also preceding version of this section amended by P.L.85-2004, SEC.54.

Sec. 3. (a) Except as provided in subsection (i), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

- (1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);
- (2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;
- (3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;
- (4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and
- (5) funeral, burial, or cremation costs incurred by the family or

estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a) or (i) is a judgment lien that:

- (1) attaches to the property of the person subject to the order;
- (2) may be perfected;
- (3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and
- (4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to the victim services division of the Indiana criminal justice institute in an amount not exceeding:

- (1) the amount of the award, if any, paid to the victim under IC 5-2-6.1; and
- (2) the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8.

The victim services division of the Indiana criminal justice institute shall deposit the restitution received under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a) or (i), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

- (1) The name and address of the person that is to receive the restitution.
- (2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-32-3-2. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a) or (i) does not bar a civil action for:

- (1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and
- (2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a) or (i) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.

As added by P.L.337-1983, SEC.1. Amended by P.L.149-1988, SEC.6; P.L.240-1991(ss2), SEC.99; P.L.2-1992, SEC.885; P.L.2-1993, SEC.194; P.L.47-1993, SEC.13; P.L.4-1994, SEC.21; P.L.307-1995, SEC.1; P.L.300-1995, SEC.3; P.L.1-1998, SEC.200; P.L.2-2002, SEC.105; P.L.88-2002, SEC.3; P.L.98-2004, SEC.157.

IC 35-50-5-4

Reimbursement order

Sec. 4. (a) This section applies only:

- (1) if the county in which a criminal proceeding was filed adopts an ordinance under IC 36-2-13-15; and
- (2) to a person who is sentenced under this article for a felony or a misdemeanor.

(b) At the time the court imposes a sentence, the court may order the person to execute a reimbursement plan as directed by the court and make repayments under the plan to the county for the costs described in IC 36-2-13-15.

(c) The court shall fix an amount under this section that:

- (1) may not exceed an amount the person can or will be able to pay;
- (2) does not harm the person's ability to reasonably be self-supporting or to reasonably support any dependent of the person; and
- (3) takes into consideration and gives priority to any other restitution, reparation, repayment, costs, fine, or child support obligations the person is required to pay.

(d) When an order is issued under this section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-32-3-2.

(e) An order under this section is not discharged:

- (1) by the completion of a sentence imposed for a felony or misdemeanor; or
- (2) by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, and

IC 34-48-6 before their repeal).

*As added by P.L.123-1998, SEC.1. Amended by P.L.1-1999, SEC.79;
P.L.2-2002, SEC.106; P.L.98-2004, SEC.158.*